

REMARKS

Reconsideration and allowance of the claims are requested in view of the above amendments and the following remarks. Claims 1-4, 6-7, 12, 14-15, 17, 32-34, 37-40, 42-43, 48, 50-52, 54, 69-70, 73-74, 77, 82-83, 85, 87 and 89 have been amended. Support for the amendments to the claims may be found throughout the specification and the claims as originally filed, including, for example, in the specification at page 6, lines 7-9; page 7, lines 12-14; page 9, lines 4-8; and page 13, lines 6-10. No new matter has been added. Claims 5, 16, 41, 53, 78 and 91-97 have been canceled without prejudice or disclaimer.

Upon entry of the amendment, claims 1-4, 6-15, 17-40, 42-52, 54-77 and 79-90 will be pending in the present application with claims 1, 2, 15, 32-33, 37-38, 51-52, 69, 73, 77, 82, 85, 87 and 89 being independent.

Applicants thank Examiner Mancho for the courtesies extended to applicants' representative, Mr. Sung Kim, during an interview conducted at the U.S. Patent and Trademark Office on June 23, 2006. The substance of the interview is incorporated in the remarks that follow.

1. Rejections Under 35 U.S.C. §112

The Office Action rejects claims 1-4, 6-15, 17-40, 42-52, 54-77 and 79-90 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection:

Applicants disagree with the assertions in the Office Action that the term "schema" is indefinite as applied to the claim language. The term "schema" is defined the specification, for example, at least at page 4, lines 17-22 and page 12, lines 12-14. Applicants can be their own lexicographers (see MPEP 2173.01).

However, for purposes of economy of prosecution, the claims have been amended to replace the term “schema” with “software component”, as agreed upon during the interview, in order to overcome the rejections under 35 U.S.C. §112, second paragraph. Support for this amendment to the claims may be found throughout the specification and the claims as originally filed, including, for example, at page 4, lines 17-18 (“the communication software . . . features a schema component”).

For at least this reason, reconsideration and withdrawal of the rejection of claims 1-4, 6-15, 17-40, 42-52, 54-77 and 79-90 under 35 U.S.C. §112, second paragraph, are respectfully requested.

2. Rejections Under 35 U.S.C. §102(b)

The Office Action rejects claims 1-4, 6-15, 17-40, 42-52, 54-77 and 79-90 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,732,074 to Spaur et al. (“Spaur”). Applicants respectfully traverse this rejection.

Spaur discloses a mobile portable wireless communication system including a computer terminal at a remote site that can communicate with a first standard communications network link, such as the Internet, through a modem. The computer terminal supplies a browser with an IP address that is associated with a particular vehicle, including communications related hardware contained in the vehicle (see col. 2, lines 25-34; Figures 1 and 2). The system allows for bi-directional communication between one or more remote stations 10a-10n and a vehicle, which includes a wireless device 18 that is able to transmit and receive information via an airlink to the remote stations (see col. 5, lines 41-43; col. 6, lines 3-14).

Spaur teaches that data memory 106 may store page information that is accessible by a web server 102. Upon receipt of a command or request from a user at a remote station, the page information may be accessed and updated with current data or other information for transmission to the user (see col. 9, lines 31-36). Therefore, Spaur teaches that data in the data memory 106

may be accessed on an ad hoc basis, whenever a command or request is manually transmitted by a user. However, Spaur fails to disclose or suggest a user specified rate (i.e., frequency) for automatically querying a vehicle's on-board diagnostic computer.

In embodiments of the present application, the rate or frequency (e.g., every 20 seconds) for automatically collecting data from a vehicle may be updated or specified by a user. This makes it possible to collect data that specifically elucidates a problem with the vehicle that may occur only under certain driving conditions (see specification, page 7, lines 12-14; page 9, lines 4-8; page 11, lines 7-10; page 13, lines 6-10).

In contrast to Spaur, independent claims 1, 2, 15, 32, 33, 37, 38, 51, 52, 69, 73, 77, 82, 85, 87 and 89 of the present application include, in some form, the limitations of a user specified rate for automatically querying a vehicle's on-board diagnostic computer.

As discussed above, Spaur does not disclose these claim limitations. Accordingly, independent claims 1, 2, 15, 32, 33, 37, 38, 51, 52, 69, 73, 77, 82, 85, 87 and 89, and their respective dependent claims, are allowable.

The Office Action on page 32 asserts that certain limitations in claims 1-15, 17-52 and 54-90 do not serve to patentably distinguish the claimed structure over that of the reference. Applicants respectfully disagree.

The Office Action cites MPEP 2114 in support of its position. During the interview, the Examiner agreed to review the citation of MPEP 2114 for its proper application to the claims in the present application, including in view of the present claim amendments. Applicants further note that MPEP 2114 is directed to apparatus and article claims. However, independent claims 37, 38, 51, 52 and 69 of the present application, and their respective dependent claims, are directed to a method, and are not apparatus or article claims.

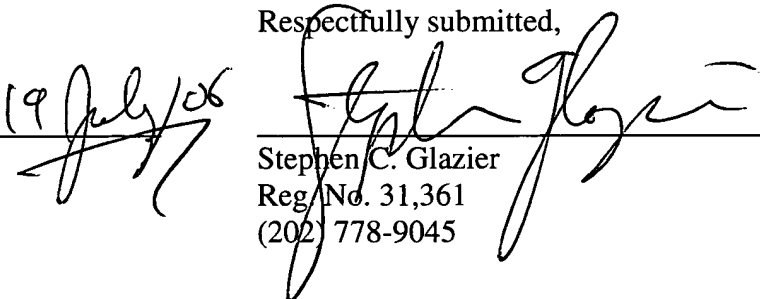
Applicants assert that all of the limitations of the claims in the present application have patentable weight, and patentably distinguish over the prior art.

3. Conclusion

In view of the above, claims 1-4, 6-15, 17-40, 42-52, 54-77 and 79-90 clearly recite elements that are neither disclosed nor suggested by the prior art, including Spaur. Applicants submit that such claims are allowable for at least this reason. Accordingly, reconsideration and withdrawal of the rejections are requested.

Applicants submit that the present application is in condition for allowance and requests favorable action in the form of a Notice of Allowance. Should the Examiner believe that this application is in condition for disposition other than allowance, the Examiner is invited to contact the undersigned at the telephone number listed below in order to address the Examiner's concerns.

Please apply any necessary additional charges or credits to Deposit Account 50-1721.

Respectfully submitted,
Date: 19 July/06 
Stephen C. Glazier
Reg. No. 31,361
(202) 778-9045

Kirkpatrick & Lockhart Nicholson Graham LLP
1601 K Street, NW
Washington, DC 20006
Tel: (202) 778-9000
Fax: (202) 778-9100